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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
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James P. Lester

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EXAMINER

SIDDIQI, MOHAMMAD A

ART UNIT

PAPER NUMBER

2154

DATE MAILED: 04/06/2006

Please find below and/or attached an Office communication concerning this application or proceeding.

Office Action Summary	Application No.	Applicant(s)	
	10/021,752	LESTER ET AL.	
	Examiner	Art Unit	
	Mohammad A. Siddiqi	2154	

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 03 January 2006.
- 2a) ☒ This action is **FINAL**. 2b) ☐ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 1-12 and 26-32 is/are pending in the application.
- 4a) Of the above claim(s) 13-25 is/are withdrawn from consideration.
- 5) ☐ Claim(s) _____ is/are allowed.
- 6) ☒ Claim(s) 1-12 and 26-32 is/are rejected.
- 7) ☐ Claim(s) _____ is/are objected to.
- 8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on _____ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some * c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
 2. ☐ Certified copies of the priority documents have been received in Application No. _____.
 3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- | | |
|---|---|
| 1) <input type="checkbox"/> Notice of References Cited (PTO-892) | 4) <input type="checkbox"/> Interview Summary (PTO-413) |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948) | Paper No(s)/Mail Date. _____ |
| 3) <input type="checkbox"/> Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08) | 5) <input type="checkbox"/> Notice of Informal Patent Application (PTO-152) |
| Paper No(s)/Mail Date _____ | 6) <input type="checkbox"/> Other: _____ |

DETAILED ACTION

1. Claims 1-11, and 26-32 are presented for examination. Claims 12-25 have been withdrawn from the consideration.

Claim Rejections - 35 USC § 102

2. The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(e) The invention was described in (1) an application for patent, published under section 122(b), by another filed in the United States before the invention by the applicant for patent or (2) a patent granted on an application for patent by another filed in the United States before the invention by the applicant for patent, except that an international application filed under the treaty defined in section 351(a) shall have the effects for purposes of this subsection of an application filed in the United States only if the international application designated the United States and was published under Article 21(2) of such treaty in the English language.

3. Claims 1-11 and 26-32 are rejected under 35 U.S.C. 102(e) as being anticipated by Dunning et. al.(US Publication 2002/0082901) (hereinafter Dunning).

4. As per claim 1, Dunning discloses computer implemented method of delivering digital media items to a one or more of the user electronic devices, the method comprising;

delivering to the one or more of the user electronic devices, via a computer network (page 6 paragraph #0091) the digital media items (web-based jukebox, page 5, paragraph #0085) in a sequential order from a playlist (a list is an abstract concept denoting an ordered collection of fixed-length entities. In practice, a sequence of records in which each record contains a pointer to the next record page 17, paragraph #0280-#0281), the playlist indicating a plurality of the digital media items (page 17, paragraph #0280-#0281) to be delivered and the sequential order for their delivery (radio sequence generator uses track preference, page 4, paragraph #0045-#0046; page 8, paragraph #0120; #0121) one or more of the user electronic devices (stream deliver system deliver jukebox, it is not limited to one user electronic device, fig 17 A-C, page 5, paragraph #0085-#0086); receiving one or more requests for at least one digital media item from one or more of the user electronic devices (stream deliver system receives request and delivers jukebox; page 5, paragraph #0085-#0086); and selectively adding (Recommendation engine suggests for tracks is interpreted as selectively adding to jukebox, any recommended track can not be added by ignoring users wish, page 7, #0111) an indication of the requested digital media item (user input from the profile or behavior is an indication of request to add the recommended track, page 7-8, #0111 - #0113) to the playlist (page 17, paragraph #0280-#0281) on at least one

of the user electronic devices if the modified playlist (page 20, paragraph #0304; page 25, paragraph #0255-#0256) would satisfy a set of restrictive criteria (authorization module enforces global business rules user preference is another restrictive criteria; 162, fig 1B, pages 5-6, paragraph #0086).

5. As per claim 2, Dunning discloses the set of restrictive criteria comprises whether the playlist satisfies a set of group preferences (authorization module enforces global business rules; pages 5-6, paragraph #0086).

6. As per claim 3, Dunning discloses the adding comprises inserting a requested media item at a random (search module, page 6, paragraph 0092; pages 7-8, paragraph 0117) position in the playlist (page 17, paragraph #0280-#0281).

7. As per claim 4, Dunning discloses attempting to add the requested media item to a position in the playlist (page 17, paragraph #0280-#0281) so that the modified playlist (page 17, paragraph #0280-#0281; page 20, paragraph #0304; page 25, paragraph #0255-#0256) satisfies the set of restrictive criteria (authorization module enforces global business rules; pages 5-6, paragraph #0086); and

disregarding the request if the requested media item cannot be added (constraints are configurable by website operator, for example no more than one song per hour from a particular album, page 8, paragraph #0120) to the playlist (page 17, paragraph #0280-#0281) so that the modified playlist (page 17, paragraph #0280-#0281) would satisfy the set of restrictive criteria (authorization module enforces global business rules; pages 5-6, paragraph #0086).

8. As per claim 5, Dunning discloses the set of restrictive criteria (authorization module enforces global business rules; pages 5-6, paragraph #0086) comprises whether the playlist complies (page 17, paragraph #0280-#0281; page 20, paragraph #0304; page 25, paragraph #0255-#0256) with the Digital Millennium Copyright Act requirement for obtaining a statutory license (page 4, paragraph #0049).

9. As per claim 6, Dunning discloses the delivering media items comprises broadcasting media items to one or more of the user electronic devices so that fewer than a substantial number of media items are delivered with an hour of when their was received (radio station programming techniques such one hour period, page 4, paragraph #0049).

10. As per claim 7, Dunning discloses the delivering media items further comprises broadcasting media items to one or more of the user electronic devices so that fewer than a substantial number of media items are delivered at a time that at least one of the user electronic devices who made the request is informed (119, fig 1A) the requested media items will be delivered (radio station programming techniques such one hour period, page 4, paragraph #0049).

11. As per claim 8, Dunning discloses the delivering media items comprises broadcasting media items to one or more of the user electronic devices so that the media items are delivered in compliance with the Digital Millennium Copyright Act requirement for obtaining a statutory license (page 16, #0267).

12. As per claim 9, Dunning discloses providing a searchable database of media items that allows at least one of the user electronic devices to search the database by a set of media attributes (page 6, paragraph #0092);

receiving a request from one or more of the user electronic devices for a media item from the database (stream deliver system receives request and delivers jukebox; page 5, paragraph #0085-#0086); and

selectively adding the requested media item from the database to the playlist if the modified playlist (page 17, paragraph #0280-#0281; page 20, paragraph #0304; page 25, paragraph #0255-#0256) would satisfy the set of restrictive criteria (authorization module enforces global business rules; pages 5-6, paragraph #0086).

13. As per claim 10, Dunning discloses the adding comprises limiting the number of requests from at least one of the user electronic devices (hundred song jukebox, page 8, paragraph #0123).

14. As per claim 11, Dunning discloses the media items are sound recordings (jukebox, page 5, paragraph #0085).

15. As per claim 26, Dunning discloses one or more media servers (web-based jukebox, page 5, paragraph #0085; page 6 paragraph #0091) for delivering digital media files to a plurality of client electronic devices over a computer network (page 6 paragraph #0091), the one or more media servers comprising:

a network connection for communicatively coupling one or more of the media servers with the plurality of client electronic devices over the

computer network (web-based jukebox, page 5, paragraph #0085; page 6 paragraph #0091);

a playlist memory containing a playlist (page 17, paragraph #0280-#0281), wherein the playlist indicates a sequential order to render a set of the digital media files (radio sequence generator uses track preference, page 4, paragraph #0045-#0046; page 8, paragraph #0120; #0121; page 17, paragraph #0280-#0281);

a media storage memory containing a library of the digital media files (radio sequence generator uses track preference, page 4, paragraph #0045-#0046; page 8, paragraph #0120; #0121; page 17, paragraph #0280-#0281); and

a processor coupled with the network connection (page 20, paragraph #0304; page 25, paragraph #0255-#0256), the playlist memory (page 20, paragraph #0304; page 25, paragraph #0255-#0256), and the media storage memory the processor operative to: (page 20, paragraph #0304; page 25, paragraph #0255-#0256) evaluate requests for digital media files from one or more of the electronic devices using a set of restrictive criteria (authorization module enforces global business rules; pages 5-6, paragraph #0086), upon at least one of the requests would satisfying the set of restrictive criteria, add an indication of the requested digital media file to the playlist

(authorization module enforces global business rules; pages 5-6, paragraph #0086); and

transmit digital media files according to the sequential order indicated by the playlist from the media storage memory to the plurality of client electronic devices over the computer network (page 5-6, paragraph #0085-#0086).

16. As per claim 27, the claim is rejected for the same reasons as claims 26 and 6, above.

17. As per claim 28, the claim is rejected for the same reasons as claims 26 and 2, above.

18. As per claim 29, the claim is rejected for the same reasons as claims 26 and 11, above.

19. As per claim 30, Dunning discloses the playlist memory (page 17, paragraph #0280-#0281) contains a plurality of playlists, each playlist corresponding to a network media channel (web-based jukebox, page 5, paragraph #0085; page 6 paragraph #0091; page 20, paragraph #0310);

the processor is adapted to receive requests for digital media files from the plurality of client electronic devices, each request being associated with a network media channel (web-based jukebox, page 5, paragraph #0085; page 6 paragraph #0091; page 20, paragraph #0310), wherein the processor evaluates each request using one or more restrictive criteria and, if the playlist including the requested media file would satisfy the set of restrictive criteria (authorization module enforces global business rules; pages 5-6, paragraph #0086), adds the requested digital media file to the playlist (page 17, paragraph #0280-#0281) ; and the one or more media servers broadcast digital media files sequentially to the network on each of the plurality of network media channels according to each corresponding playlist web-based jukebox, page 5, paragraph #0085; page 6 paragraph #0091; page 20, paragraph #0310).

20. As per claim 31, the claim is rejected for the same reasons as claims 26 and 7, above.

21. As per claim 32, Dunning discloses the set of restrictive criteria authorization module enforces global business rules; pages 5-6, paragraph #0086) comprises a set of group preferences to each network media channel (page 20, paragraph #0310).

Response to Arguments

22. Applicant's arguments filed 01/03/2006 have been fully considered but they are not persuasive, therefore rejections to claims 1-12 and 26-32 is maintained.

23. Examiner has cited particular columns and line numbers in the references as applied to the claims above for the convenience of the applicant. Although the specified citations are representative of the teachings of the art and are applied to the specific limitations within the individual claim, other passages and figures may apply as well. It is respectfully requested from the applicant in preparing responses, to fully consider the references in entirety as potentially teaching all or part of the claimed invention, as well as the context of the passage as taught by the prior art or disclosed by the Examiner.

24. In the remarks applicants argued that:

Argument: Dunning does not teach that the same media items and/or media files are delivered to the plurality of user electronic devices (page 11).

Response: In response to applicant's argument that the references fail to show certain features of applicant's invention, it is noted that the features

upon which applicant relies (i.e., the same media items and/or media files are delivered to the plurality of user electronic devices) are not recited in the rejected claim(s). Although the claims are interpreted in light of the specification, limitations from the specification are not read into the claims. See *In re Van Geuns*, 988 F.2d 1181, 26 USPQ2d 1057 (Fed. Cir. 1993).

Argument: Dunning does not teach selectively adding an indication of the requested digital media item to the playlist on at least one of the user electronic devices if the modified playlist would satisfy a set of restrictive criteria. (page 11)

Response: Dunning teaches selectively adding (Recommendation engine suggests for tracks is interpreted as selectively adding to jukebox, any recommended track can not be added by ignoring users wish, page 7, #0111) an indication of the requested digital media item to the playlist (page 17, paragraph #0280-#0281) on at least one of the user electronic devices if the modified playlist (page 20, paragraph #0304; page 25, paragraph #0255-#0256) would satisfy a set of restrictive criteria (authorization module enforces global business rules user preference is another restrictive criteria; 162, fig 1B, pages 5-6, paragraph #0086).

Argument: Dunning does not teach receiving one or more requests for at least one digital media item from one or more of the user electronic devices.

Response: Dunning teaches receiving one or more requests for at least one digital media item (stream deliver system receives request and delivers jukebox, jukebox contains more than one request; page 5, paragraph #0085-#0086) from one or more of the user electronic devices (stream deliver system deliver jukebox, it is not limited to one user electronic device, fig 17 A-C, page 5, paragraph #0085-#0086).

Argument: Dunning does not teach the digital media items in a sequential order from a playlist to be delivered and the sequential order for their delivery one or more of the user electronic devices.

Response: Dunning teaches the digital media items (web-based jukebox, page 5, paragraph #0085) in a sequential order from a playlist (a list is an abstract concept denoting an ordered collection of fixed-length entities. In practice, a sequence of records in which each record contains a pointer to the next record, Jukebox which is software application allowing users to create playlists, as it is described in reference anticipates sequential order by definition of list. page 17, paragraph #0280-#0281), the playlist indicating a plurality of the digital media items (page 17, paragraph #0280-#0281) to be delivered and the sequential order for their

delivery (radio sequence generator uses track preference, page 4, paragraph #0045-#0046; page 8, paragraph #0120; #0121) one or more of the user electronic devices (stream deliver system deliver jukebox, it is not limited to one user electronic device, fig 17 A-C, page 5, paragraph #0085-#0086).

25. Applicant's arguments fail to comply with 37 CFR 1.111(b) because they amount to a general allegation that the claims define a patentable invention without specifically pointing out how the language of the claims patentably distinguishes them from the references.

Conclusion

26. **THIS ACTION IS MADE FINAL.** Applicant is reminded of the extension of time policy as set forth in 37 CFR 1.136(a).

A shortened statutory period for reply to this final action is set to expire THREE MONTHS from the mailing date of this action. In the event a first reply is filed within TWO MONTHS of the mailing date of this final action and the advisory action is not mailed until after the end of the THREE-MONTH shortened statutory period, then the shortened statutory period will expire on the date the advisory action is mailed, and any extension fee pursuant to 37 CFR 1.136(a) will be calculated from the mailing date of the

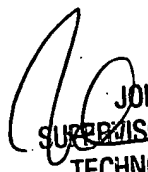
advisory action. In no event, however, will the statutory period for reply expire later than SIX MONTHS from the mailing date of this final action.

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Mohammad A. Siddiqi whose telephone number is (571) 272-3976. The examiner can normally be reached on Monday -Thursday.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, John A. Follansbee can be reached on (571) 272-3964. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).

MAS


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